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Huffman Law Group, PC
1832 North Cascade Ave
Colorado Springs, CO 80907-7449

In re Application of: Pettey, et al.
Application No. 10/827,117
Filed: 19 April 2004
For: SWITCHING APPARATUS AND
METHOD FOR PROVIDING SHARED I/O
WITHIN A LOAD-STORE FABRIC

MAILED
JUL 21 2005
Technology Center 2100

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a decision on the petition filed 21 October 2004, under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

- (a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
- (b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
- (c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;
- (d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
- (e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petition filed 21 October 2004 fails to adequately meet requirements (c) and (e) as set forth supra.

Responsive to requirement (c), applicant must submit a statement that a search was made with respect to the claims of the Application for which special status is requested. Specifically, the "pre-examination search must be directed to the invention as claimed in the application for which special status is requested." Applicant's petition, however, states in paragraph (c), "A copy of the search report is attached hereto. The search report references docket number Nextio.0301. Docket number Nextio.0402 (the instant application), contains a similar specification, **differing in aspects of the disclosed invention which is claimed**". (emphasis added). Petitioner is required to make a search that is directed to the features claimed in the instant Application and provide a statement of this fact.

Pursuant to requirement (e), applicant must provide a "detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references." Petitioner should ensure that the above discussion is directed to *how the language of each of the independent claims are specifically distinguishable and patentable from the references* provided pursuant to requirement (d) supra.

Applicant's petition fails to discuss the claimed limitations with respect to the references in accordance with the requirements of 37 CFR 1.111 (b) and (c). The petition does not point out specific limitations in claims 1, 12 and 22 (each of the independent claims) that may distinguish the invention over the references. Petitioner is required to specify and juxtapose the patentable subject matter from the claims in a comprehensive correlation with each of the cited references. Pursuant to section (e) supra, the "detailed discussion" must include identifying claim limitations with particularity for each independent-claim that cannot be found in the relevant prior art references.

The petition also neglects to discuss all of the references "deemed most closely related to the subject matter encompassed by the claims", and submitted in connection with section (d) supra. Petitioner refers to a search report that contains fourteen (14) references having relevancy under section (d), however, the discussion only deals with three (3) of the 14 cited references. Petitioner simply sweeps past the remaining references with a statement that "[n]othing in the . . . other patents disclosed in the search report teach . . ." certain limitations in claims 1, 12 and 22. The petition is required to provide a "detailed discussion" of all the references submitted in section (d) to fully satisfy the criteria set forth by requirements (d) and (e) supra.

In the discussion of how the claims are patentable over the references, the petition must show, for each independent-claim, specific limitations that distinguish over each reference submitted under section (d) in order to specify "how the claimed subject matter is patentable over the references."

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.



Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595
7/19/05

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